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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/431,699	11/01/1999	CARL G. DEMARCKEN	09765/016001	9097

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EXAMINER

KAPADIA, MILAN S

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 12/09/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/431,699

Applicant(s)

DEMARCKEN, CARL G.

Examiner

Milan S Kapadia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 01 October 2002.
Claims 1-25 are pending. Claim 25 is newly added.

Claim Objections

2. Due to Applicant's amendments, the objections in the previous Office Action (paper number 4) have been withdrawn.

Drawings

3. Due to Applicant's amendments, the objections in the previous Office Action (paper number 4) have been withdrawn.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 21, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMarcken (6,377,932).

(A) As per claim 1, DeMarcken discloses a method for rules validation for a travel planning system comprising:

reducing a larger set of travel options to a smaller set of diverse travel options in accordance with a set of diverse travel requirements that represent conditions for a travel option to be considered for inclusion in the set of diverse travel options .

(DeMarcken; col. 48, lines 54-67, fig. 18, and col. 49, lines 42-58); the examiner interprets the "pricing graph" as "a larger set of travel options" and the "extracted pricing solutions" as a "smaller set of diverse travel options.")

(B) As per claim 2, DeMarcken discloses generating one or more travel options

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consistent for each of the diversity of travel requirements (DeMarcken; col. 49, lines 31-58).

(C) As per claim 3, DeMarcken discloses generating one or more desired travel options consistent with the diversity of travel requirements (DeMarcken; col. 49, lines 31-58)

(D) As per claim 4, DeMarcken discloses generating one or more of the best travel options consistent with a diversity of travel requirements where the travel requirements are dependent on the original set of travel options (DeMarcken; col. 49, lines 42-58; it is respectfully, that criteria like "a value function can specify a minimum value of some value over the set of pricing solutions that involve a particular node" is a form of "travel requirements which are dependent on the original set of travel options.")

(E) As per claim 5, DeMarcken discloses the set of travel requirements includes requirements for different airlines (DeMarcken; col. 49, lines 53-58).

(F) As per claim 6, DeMarcken discloses the set of travel requirements includes requirements for travel times of day, travel dates class (DeMarcken; col. 59, lines 29-46 and fig. 22; the examiner understands the itinerary to comprise of both times of day and travel dates), numbers of stops class (DeMarcken; col. 58, lines 60-63), arrival or

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departure airports class (DeMarcken; col. 59, lines 5-7), and cabin class (DeMarcken; col. 59, lines 2-4).

(G) As per claim 7, DeMarcken discloses the set of travel requirements includes requirements that are combinations of other requirements (DeMarcken; col. 49, lines 53-58; the examiner interprets applying the requirements to a subset of the pricing graph, therefore applying multiple requirements to the original pricing graph, as a form of "requirements that are combinations of other requirements.").

(H) As per claim 8, DeMarcken discloses the set of travel requirement combinations include outbound and return travel dates or times of day (DeMarcken; col. 60, lines 6-15).

(I) As per claim 9, DeMarcken discloses the set of travel requirement combinations include airlines and number of stops, arrival and departure airports (DeMarcken; col. 58, lines 60-63 and col. 60, lines 16-24).

(J) As per claim 10, DeMarcken discloses generating one or more travel options that are best for each of a set of travel preference functions to provide a set of diverse travel options (DeMarcken; col. 49, lines 42-67).

(K) As per claim 11, DeMarcken discloses the travel preference functions include

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functions that optimize cost or functions that optimize convenience (DeMarcken; col. 49, lines 42-67).

(L) As per claim 12, DeMarcken discloses the travel preference functions include both functions that optimize cost and functions that optimize convenience and functions that optimize combinations of cost and convenience (DeMarcken; col. 49, lines 42-67).

(M) Claim 21 is the corresponding system claim to method claim 1 and therefore is rejected for the same reasons given above in the rejection of claim 1 and incorporated herein.

(N) As per claim 25, DeMarcken discloses evaluating for the travel requirements a set of travel preference functions used to order the larger set of travel options (DeMarcken; col. 48, line 54-col. 49, line 58; the examiner interprets the "user query" as a form of "travel preference function.")

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMarcken et al (6,377,932) in view of Webber et al. (5, 331, 546).

(A) As per claim 13, DeMarcken teaches sorting the list of travel options Ts by an ordering function F to produce a best-first ordered list Ts2 with the list of options being optimized travel options for a set of travel requirements R in accordance with the ordering function F (DeMarcken; col. 49, lines 59-67).

However, DeMarcken fails to expressly teach generating a prioritized ordered list of requirements but does teach applying the requirements in a specific order (DeMarcken; col. 49, lines 41-42). However, this feature is old and well known in the art, as evidenced by Webber's teachings with regards to generating a prioritized ordered list of requirements to be applied to a set of travel options (Webber; fig. 4A; the examiner interprets requirements like items 60, 62, and 66 in fig. 4A as a "prioritized list of requirements."). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by DeMarcken with Webber's teaching with regard to generating a prioritized list of requirements, with the motivation of taking into account details of a preset corporate travel policy, as well as individual travel preferences, such as the trade-offs between ticket prices and travel time (Webber; col. 2, lines 36-41).

(B) As per claim 14, DeMarcken fails to expressly disclose initializing the list of result

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travel options Rts to be empty; and if the remaining list of requirements Rs is empty, returning an ordered list of diverse travel options Rts. However, this feature is old and well known in the art, as evidenced by Webber's teachings with regards to initializing the list of result travel options RTs to be empty; and if the remaining list of requirements Rs is empty, returning an ordered list of diverse travel options Rts (Webber; col. 8, lines 35-50, fig. 6A, and fig. 6B; it is respectfully submitted, that if the resulting travel options list is empty after testing a requirement, then the list of result travel options has been initialized to be empty; the examiner interprets "save as one of the six best preference itineraries," item 234 of fig. 6A, as occurring after determining that the "remaining list of requirements is empty" and interprets "sort the selected itineraries by departure time and display them and their best fares to the travel arranger" as "returning an ordered list of diverse travel options."). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by DeMarcken with Webber's teachings with regards to initializing the list of result travel options RTs to be empty; and if the remaining list of requirements Rs is empty, returning an ordered list of diverse travel options Rts, with the motivation of rapidly sifting through what may be thousands of currently available flights, fares and rules for a given trip and to find the lowest fare for which the particular traveler and trip qualify and for which seats are available (Webber; col. 4, lines 25-34).

(C) As per claim 15, the collective system of DeMarcken and Webber teach

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initializing the list of result travel options Rts to be empty as shown above in the rejection of claim 14, and therefore incorporated herein. The combined system of DeMarcken and Webber, collectively also teach if the remaining list of requirements Rs is not empty, selecting a first travel requirement R from the ordered list of requirements (Rs) (Webber; fig. 6A; the examiner interprets selecting requirements, like items 226 and 228 of fig. 6A, as "selecting a first travel requirement from the ordered list of requirements if the remaining list of requirement is not empty.")

However, the combined system of DeMarcken and Webber, collectively fail to teach removing a requirement R from the requirement list (Rs). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by DeMarcken and Webber to remove the requirement from the list, with the motivation ensuring a particular requirement is not applied multiple times.

(D) As per claims 16 and 17, DeMarcken fails to expressly disclose finding a first option T in a best-first ordered list (Ts2) that satisfies travel requirement R and determining whether any option in the Ts2 satisfies the travel requirement. However, this feature is old and well known in the art, as evidenced by Webber's teachings with regards to finding a first option T in a best-first ordered list (Ts2) that satisfies travel requirement R and determining whether any option in the Ts2 satisfies the travel requirement (Webber; fig. 2; the examiner interprets "select itineraries with available seats and lowest valid fares" as "finding a first option that satisfies travel requirements")

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and interprets "select only confirming itineraries" as "determining whether an options satisfies travel requirement.") It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by DeMarcken with Webber's teachings with regards to finding a first option T in a best-first ordered list (Ts2) that satisfies travel requirement R and determining whether any option in the Ts2 satisfies the travel requirement, with the motivation of rapidly sifting through what may be thousands of currently available flights, fares and rules for a given trip and to find the lowest fare for which the particular traveler and trip qualify and for which seats are available (Webber; col. 4, lines 25-34).

(E) As per claim 18, DeMarcken fails to expressly disclose if no option in Ts2 satisfies R, the method further comprises: checking if the remaining list of requirements Rs is empty. However, this feature is old and well known in the art, as evidenced by Webber's teachings with regards to checking if the remaining list of requirements Rs is empty if no option in Ts2 satisfies R (Webber; col. 8, lines 25-40). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by DeMarcken with Webber's teachings with regards to checking if the remaining list of requirements Rs is empty if no option in Ts2 satisfies R, with the motivation of rapidly sifting through what may be thousands of currently available flights, fares and rules for a given trip and to find the lowest fare for which the particular traveler and trip qualify and for which seats are available (Webber; col. 4, lines 25-34).

(F) As per claim 19, the collective system of DeMarcken and Webber teach determining if the size of the travel option list Rts is equal to or greater than N the process in order to return the ordered list of diverse travel options (Webber; col. 15, lines 7-17).

However, the combined system of DeMarcken and Webber collectively fail to teach after determining if a travel option T is not already in the result list Rts, adding the travel option T to end of the result travel option list Rts. It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by DeMarcken and Webber to determine if a travel option T is not already in the result list Rts and adding the travel option T to end of the result travel option list Rts, with the motivation ensuring a particular travel option does not show up multiple times in the travel option result list.

(G) As per claim 20, the combined system of DeMarcken and Webber, collectively fail to teach determining for each travel requirement R2 in Rs, whether the requirement R2 includes a requirement R, and T satisfies R2, and if T satisfies R2; removing R2 from Rs. It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by DeMarcken and Webber to determine for each travel requirement R2 in Rs, whether the requirement R2 includes a requirement R, and T satisfies R2, and if T satisfies R2; removing R2 from Rs, with the motivation improving the speed of the

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system by by-passing the application of a requirement that is a subset of an already applied requirement.

(H) Claims 22-24 are the corresponding system claims to method claims 13-15 and therefore are rejected for the same reasons given above in the rejections of claims 13-15 and incorporated herein.

Response to Arguments

4. Applicant's arguments with respect to amended claims 1 and 25 have been considered but are moot in view of the new ground(s) of rejection.

(A) At pages 5-6 and 8 of the 10/01/02 communication, Applicant argues each of the applied references individually.

In response, the Examiner respectfully submits that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In particular, the teachings that Applicant argues are missing from the DeMarcken reference are in fact clearly disclosed by the teachings of DeMarcken, as discussed in detail within a prior Office Action (paper number 4) and in the preceding rejections, and incorporated herein.

Further, the features newly added and entered in the amendment filed 10/01/02, they have been shown to be fully disclosed by DeMarcken, as discussed above in detail within the preceding sections of the present Office Action.

In addition, it is respectfully submitted that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

5. Applicant's arguments filed 10/01/02 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed 10/01/02.

(A) At page 6 of the 10/01/02 response, Applicant argues that "DeMarcken does not suggest that multiple such valuation functions could be used to extract answers from a single travel query as a way to ensure that the final setoff travel options is diverse..." in reference to claim 10. In response, it is respectfully submitted that the Applicant has misinterpreted the full teachings of DeMarcken. DeMarcken clearly teaches enumerating pricing solutions in a specific order (DeMarcken; col. 49, lines 42-57). Multiple valuation functions are used to extract the pricing solutions. As such, DeMarcken does disclose "that multiple such valuation functions could be used to

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extract answers from a single travel query as a way to ensure that the final setoff travel options is diverse.”

(B) At page 6 of the 10/01/02 response, Applicant argues that “DeMarcken does not describe a diversity based pruning process...” in reference to claim 21. In response, it is respectfully submitted that the Applicant has misinterpreted the full teachings of DeMarcken. DeMarcken clearly teaches a diversity based pruning process (DeMarcken; col. 49, lines 42-57). Multiple valuation functions are used to extract the pricing solutions. As such, DeMarcken does disclose “a diversity based pruning process.”

(C) At pages 7 and 8 of the 10/01/02 response, Applicant argues that “DeMarcken and Webber do not teach sorting the list of travel options...with the list of options being optimized travel options for a set of travel requirements” in reference to claims 13 and 22. In response, the Examiner respectfully notes that the cited reference was never applied as a reference under 35 U.S.C. 102 against amended claim 12. As such, the Examiner respectfully submits that the issue at hand is not whether the applied prior art specifically teaches the claimed features, *per se*, but rather, whether or not the prior art, when taken in combination with the knowledge of average skill in the art, would put the artisan in possession of these features. Regarding this issue, it is well established that references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA

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1969). The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

According to *In re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In *In re Bode*, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein.

According to *Ex parte Berins*, 168 USPQ 374 (Bd. Appeals), there is no statutory limitation as to the number of references that may be used to demonstrate obviousness...not what references expressly state but what they would reasonably suggest to one of ordinary skill in the art. In *In re Conrad*, 169 USPQ 170 (CCPA), obviousness is not based on express suggestion, but what references taken collectively would suggest.

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In the instant case, DeMarcken discloses the ranking (reads on "sorting") of pricing solutions (reads on "travel options."; DeMarcken; col. 49, lines 59-67). In addition, DeMarcken teaches applying the requirements in a specific order (DeMarcken; col. 49, lines 42-43) and Webber further discloses applying a list of "requirements" also in a specific order to a set of travel options. Thus, it is respectfully submitted, that the applied prior art clearly teaches sorting the list of travel options...with the list of options being optimized travel options for a set of travel requirements.

As such, it is respectfully submitted that Applicant appears to view the applied references in a vacuum without considering the knowledge of average skill in the art.

Moreover, the Examiner is concerned that, aside from merely alleging that certain claimed features are not obvious from DeMarcken and Webber essentially in the form of blanket statements, Applicant does not point to any specific distinction(s) between the features disclosed in the references and the features that are presently claimed. In particular, 37 CFR 1.111(b) states, "A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference does not comply with the requirements of this section." Applicant has failed to specifically point out how the language of the claims patentably distinguishes them from the applied references.

Also, arguments or conclusions of Attorney cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326 F.2d 769, 140 USPQ 230 (1964); *In re Schulze*, 52 CCPA 1422, 346 F.2d 600, 145 USPQ 716 (1965); *Mertizner v. Mindick*, 549 F.2d 775, 193 USPQ 17 (CCPA 1977).

(D) At pages 7-8 of the 10/01/02 response, Applicant argues that "Webber does not teach to return a list of diverse travel options if the list of requirements is empty..." and "Webber does not teach selecting a first travel requirement R from the ordered list of requirements (Rs) and removing a requirement R from the requirement list (Rs) if the remaining list of requirements Rs is not empty" in reference to claims 14 and 15, respectively. In response, it is respectfully submitted that Applicant's claim language is written as conditional statements. As such, for example in reference to claim 14, in the case of the "list of requirements NOT" being empty, no action is required. Therefore Webber does teach the stated limitations.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Thursday, 8:30 A.M. to 6:00 P.M. In addition the examiner can be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


mk

December 5, 2002


DINH X. NGUYEN
PRIMARY EXAMINER